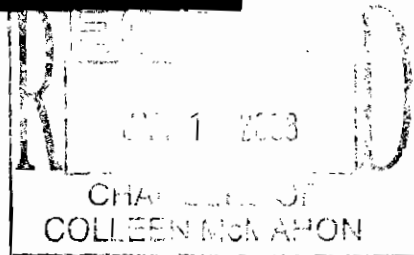


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MEMO ENDORSED

Date January 18, 2008 Phone  
To Honorable Judge Colleen McMahon, 212 805 6325  
Southern District Court, New York, New York 212 805 6326  
From James David Jacobs +1 212 891 3951  
Client/Matter No. 56142904-000002  
Re Software AG, Inc. v. Consist Computer Solutions 08 CV 00389  
Pages (w/cover) 3

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DATE FILED: 1/18/08

Dear Judge McMahon:

Literally minutes after we faxed our letter to you we received the enclosed letter from counsel for Consist. We would like to speak to Your Honor this afternoon if possible. Defendants' unilateral attempts to determine what will and will not be heard next Thursday are prejudicing our ability to prepare for the hearing.

Respectfully,

James D. Jacobs

cc: Hyman L. Schaffer

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1/18/2008  
Other Consist computer and the  
discovery requests or I will not only draw  
adverse inferences, I will impose monetary  
sanctions on counsel for unilaterally taking  
the position that they will not produce  
documents. Defendants did not  
control the content of the hearing.  
Defendant will produce  
documents.

Colleen McMahon

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January 18, 2008

**BY ELECTRONIC MAIL**

James D. Jacobs, Esquire  
Baker & McKenzie LLP  
1114 Avenue of the Americas  
New York NY 10036-7703

Re: Software AG, Inc. et ano. v. Consist Software Solutions (08 Civ. 0389) (CM) (FM)

Dear Jim:

By now, I am sure you have read the letter I sent to Judge McMahon earlier today and reviewed the attachments. In light of Consist's immediate and voluntary efforts to address SAG's claim that the statements on the Brazilian website were literally false, we believe that the only possible matter that could be determined at Thursday's hearing is whether SAG could somehow be entitled to an order requiring a Brazilian court or the Brazilian trademark office to order cancellation of the Brazilian trademark registrations owned by our clients' affiliate in Brazil. It is our view that the Court clearly lacks jurisdiction to grant the relief SAG seeks and that, in any event, there is no need for emergency relief. Accordingly, we request that you agree to withdraw your clients' request for a preliminary injunction.

Since SAG no longer requires the Court to compel Consist to change the disclosure on the Brazilian website, expedited discovery should be limited accordingly. If you do not agree to withdraw your clients' request for a preliminary injunction, we therefore intend to provide and take expedited discovery only on the narrow trademark issue that SAG raised in its motion. To the extent that we have not already done so, we will produce today responsive documents in our clients' possession pertaining to this issue, including any registration materials and certificates for the trademarks. We will also stipulate to amend the confidentiality order entered into in the prior litigation to permit SAG to use any pertinent documents previously produced which are relevant to the current trademark issue. For this reason, we will not re-produce such materials in this action.

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Duane Morris

James D. Jacobs, Esquire  
January 18, 2008  
Page 2

With respect to depositions, the elimination of the false advertising claim makes it unnecessary to depose Mr. MacSwain or Mr. Daly. While we will proceed with the SAG 30(b)(6) deposition on January 22, we will confine the examination to the trademark issue.

Very truly yours,

*Hyman L. Schaffer / SD*

Hyman L. Schaffer

cc: Frank M. Gasparo, Esq.  
Marcella Ballard, Esq.  
John Basinger, Esq.